

The Gazette of India

PUBLISHED BY AUTHORITY

No. 8] NEW DELHI, SATURDAY, FEBRUARY 21, 1959/PHALGUNA 2, 1880

NOTICE

The undermentioned Gazettes of India Extraordinary were published upto the 13th February, 1959:—

Issue No.	No. and date	Issued by	Subject
23	S.O. 382, dated 11th February, 1959.	Ministry of Law	Declaration containing the name of the candidate elected in the Chandauli Parliamentary Constituency, to fill the vacancy in the House of the People.
24	S.O. 383, dated 11th February, 1959.	Ministry of Commerce and Industry.	Details specified regarding Forward Contracts (Regulation) Act, 1952 applicable to Gur.
25	S. O. 384, dated 13th February, 1959.	Do.	Nomination of Shri K. Srinivasan and Dr. S. L. Kapoor, as members of the Rubber Board to represent interests other than Manufacturers and labour.
26	S. O. 385, dated 13th February, 1959.	Ministry of Information and Broadcasting.	Certification of films specified therein.

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

PART II—Section 3—Sub-section (II)

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administrations of Union Territories).

ELECTION COMMISSION, INDIA

New Delhi, the 12th February 1959

S.O. 3931.—In pursuance of sub-rule (4) of rule 134 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, the Election Commission hereby notifies the name of the person shown in column 1 of the

Schedule below who having been a contesting candidate for election to the House of the People from the constituency specified in column 2 thereof, at the bye-election held in 1958 has, in accordance with the decision given today by the Election Commission under sub-rule (3) of the said Rule, failed to lodge any account of his election expenses and will accordingly become subject to the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951 (Act 43 of 1951), on the expiration of two months from the date of the said decision.

SCHEDULE

Name contesting candidate	Name of constituency
I	2
Shri Shafiqul Haque, Village Imadpur, P. O. Barsoeghat,	Katihar
District Purnea (Bihar).	

[No. BR-P/64/58/Bye-(215)2692.]

By order,

A. S. NADKARNI, Under Secy.

MINISTRY OF HOME AFFAIRS

New Delhi, the 17th February 1959

S.O. 394.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following amendments in the Central Civil Services (Classification, Control and Appeal) Rules, 1957, namely:

In sub-rule (g) (vii) of rule 2 of the said Rules, for the word "Secretary", the words "Secretary or Additional Secretary" shall be substituted.

[No. 7/1/59-Ests(A).]

P. SITARAMAN, Dy. Secy.

MINISTRY OF EXTERNAL AFFAIRS

New Delhi, the 4th February 1959

S.O. 395.—Shri J. K. Atal, I.F.S., Joint Secretary to the Government of India in the Ministry of External Affairs has been appointed Controller General of Emigration with the Government of India with effect from the 23rd January, 1959, vice Shri R. K. Tondon, I.F.S.

[F.S.O. App/C.G.E./59-2.]

[F. 4-28/58-Eml.]

S. N. SHEOPORI, Under Secy.

MINISTRY OF FINANCE

(Department of Expenditure)

New Delhi, the 12th February 1959

S.O. 396.—In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the constitution and all other powers hereunto enabling, the President, after consultation with the Comptroller and Auditor General of India in respect of persons serving in the Indian Audit and Accounts

Department, hereby makes the following further amendments in the Civil Service Regulations, namely:—

In the said regulations;—

(1) for sub-clause (b) of clause (1) of article 919, the following sub-clause shall be substituted, namely:—

“(b) in the case of gazetted and non-gazetted officers, by the Heads of Departments and other authorities competent to fill the appointment vacated by the retiring officers”;

(2) the Note below clause (1) of article 919(1) shall be omitted.

[No. F.5(7)-E.V./59.]

D. D. BHATIA, Dy. Secy.

(Department of Economic Affairs)

New Delhi, the 11th February 1959

S.O. 397.—Statement of the Affairs of the Reserve Bank of India, as on the 6th February 1959.

BANKING DEPARTMENT

Liabilities	Rs.	Assets	Rs.
Capital paid up	5,00,00,000	Notes	11,29,81,000
Reserve Fund	80,00,00,000	Rupee Coin	2,18,000
National Agricultural Credit (Long-term Operations) Fund	25,00,00,000	Subsidiary Coin	3,81,000
National Agricultural Credit (Stabilisation) Fund	3,00,00,000	Bills Purchased and Discounted :—	
Deposits :—		(a) Internal
(a) Government		(b) External
(1) Central Government	50,44,09,000	(c) Government Treasury Bills	6,36,78,000
(2) Other Governments	21,79,27,000	Balances held abroad*	26,01,18,000
(b) Banks	67,94,67,000	**Loans and Advances to Governments	27,90,28,000
(c) Others	115,69,72,000	Other Loans and Advances†	90,30,53,000
Bills Payable	22,77,14,000	Investments	253,56,21,000
Other Liabilities	35,39,46,000	Other Assets	11,53,57,000
TOTAL	427,04,35,000	TOTAL	427,04,35,000

*Includes Cash & Short term Securities.

**Includes Temporary Overdrafts to State Governments.

†The item 'Other Loans and Advances' includes Rs. 4,59,51,000 advanced to scheduled banks against usance bills under Section 17(4) (c) of the Reserve Bank of India Act.

Dated the 11th day of February 1959.

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 6th day of February 1959

ISSUE DEPARTMENT

Liabilities	Rs.	Rs.	Assets	Rs.	Rs.
Notes held in the Banking Department	11 29,81,000		A. Gold Coin and Bullion :—		
Notes in circulation	1658,09,45,000		(a) Held in India	117,76,03,000	
Total Notes issued		1669,39,26,000	(b) Held outside India	
			Foreign Securities	164,67,56,000	
			TOTAL OF A. . . .		282,43,59,000
			B. Rupee Coin		132,17,20,000
			Government of India Rupee Securities		1254,78,47,000
			Internal Bills of Exchange and other commercial paper
TOTAL—LIABILITIES		1669,39,26,000	TOTAL—ASSETS		1669,39,26,000

Dated the 11th day of February, 1959.

H. V. R. IENGAR, Governor.

[No. F. 3(2)-BC/59.]

A. BAKSI, Jt. Secy.

ERRATUM

At the foot of Statement of Affairs of the Reserve Bank of India as on 2nd January 1959, published on pages 132-133 of the Gazette of India, Part II—Section 3(ii), dated 17th January 1959, the designation of Shri H. V. R. Iengar should be "Governor" in place of "Dy. Governor".

(Department of Economic Affairs)**INSURANCE***New Delhi, the 12th February 1959*

S.O. 398.—In pursuance of the provisions of sub-section (2) of Section 64G of the Insurance Act, 1938, the Central Government hereby nominates Shri J. T. Dunlop of the Atlas Assurance Company, Ltd., Calcutta, as a member of the Executive Committee of the General Insurance Council of the Insurance Association of India in place of Shri S. R. Tattersall, resigned.

[No. F. 51(8)INS. I/59.]

P. GANGULEE, Dy. Secy.

(Department of Economic Affairs)*New Delhi, the 16th February 1959*

S.O. 399.—It is notified for general information that in pursuance of sub-section (1) of Section 34 of the Industrial Finance Corporation Act, 1948 (15 of 1948), Messrs. S. B. Billimoria and Company, Chartered Accountants, 113, Mahatma Gandhi Road, Fort, Bombay, have been elected by the parties mentioned in sub-section (3) of Section 4 of the said Act, as one of the two auditors of the Industrial Finance Corporation of India for the year ending with the 30th June, 1959.

[No. F. 2(77)-Corp/58.]

S. S. SHARMA, Under Secy.

(Department of Revenue)**CUSTOMS***New Delhi, the 21st February 1959*

S.O. 400.—In exercise of the powers conferred by section 6 of the Sea Customs Act, 1878 (8 of 1878), as in force in India and as applied to the State of Pondicherry, and in supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 184-Customs dated the 7th June, 1958, the Central Government hereby appoints all officers of the Directorate of Revenue Intelligence, to be officers of Customs and to exercise the powers conferred, and to perform the duties imposed, by the said Act on such officers.

[No. 25 F. No. 22/2/58-Cus. IV.]

M. A. RANGASWAMY, Dy. Secy.

(Department of Revenue)**ORDERS****STAMPS***New Delhi, the 9th February 1959*

S.O. 401.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits the duty chargeable under the said Act in respect of the following instruments executed by the High Commissioner for the United Kingdom in India, namely:—

- (1) Lease deed dated the 30th December, 1958 in respect of ground and first floor flats at No. 56/48 Chanakyapuri, New Delhi.
- (2) Lease deed, dated the 9th January, 1959 in respect of the property at No. 3, Southern Lane, New Delhi.

[No. 4.]

New Delhi, the 13th February 1959

S.O. 402.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits retrospectively the whole of the stamp duty chargeable under the said Act on the sale deed executed on the 11th April, 1958 in favour of the High Commissioner for Canada in India in respect of the following structures existing in the premises known as No. 4—Aurangzeb Road, New Delhi, namely:—

(1) *Boiler Room and Servant quarter*

$1 \times 22\frac{1}{2} \times 11\frac{1}{2}$ = 266 sq. ft.

$1 \times 10\frac{1}{2} \times 8\frac{1}{2}$ = 84 sq. ft.

(2) *37 Nos. Servant quarters*

$1 \times 106\frac{1}{2} \times 17\frac{1}{2}$ = 1877 sq. ft.

$3 \times 97 \times 17\frac{1}{2}$ = 5141 sq. ft.

(3) *One Garage*

$1 \times 18\frac{1}{2} \times 10\frac{1}{2}$ = 194 sq. ft.

(4) *One Servant quarter*

$1 \times 22\frac{1}{2} \times 17\frac{1}{2}$ = 403 sq. ft.

[No. 5 F. No. 1/61/58-Stamps/Cus.VII.]

D. N. LAL, Under Secy.

CENTRAL BOARD OF REVENUE

INCOME-TAX

New Delhi, the 9th February 1959

S.O. 403.—In exercise of the powers conferred by sub-section (2) of section 5 of the Indian Income-tax Act, 1922 (11 of 1922), and in partial modification of all previous notifications on the subject, the Central Board of Revenue hereby directs that with effect from 24th January 1959 (afternoon), Shri A. R. H. Naik shall perform all the functions of Commissioner of Income-tax in respect of such areas or of such persons or classes of persons or such incomes or classes of incomes or such cases or classes of cases as are comprised in the Income-tax Circles, Wards or Districts in the State of Assam and the Union Territory of Manipur and Tripura:

Provided that he shall also perform his functions in respect of such persons or of such cases as have been or may be assigned by the Central Board of Revenue to any Income-tax Authority subordinate to him:

Provided further that he shall not perform his functions in respect of such persons or such cases as have been or may be assigned to any income-tax authority outside his jurisdictional area.

While performing the said functions the said Shri Naik shall be designated as the Commissioner of Income-tax, Assam, Manipur and Tripura with headquarters at Shillong.

Explanatory Note

NOTE.—The amendments have become necessary due to the change in the incumbent of the Commissioners' Charge.

(The above note does not form a part of the notification but is intended to be merely clarificatory).

[No. 23 (F. No. 55/27/59-IT).]

B. V. MUNDKUR, Under Secy.

CUSTOMS

New Delhi, the 21st February 1959

S.O. 404.—In exercise of the powers conferred by section 9 of the Sea Customs Act, 1878 (8 of 1878), as in force in India and as applied to the State of Pondicherry, the Central Board of Revenue hereby makes the following rule, namely;

The officers of the Directorate of Revenue Intelligence who have been appointed officers of Customs by the Notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 25-Customs dated the 21st February, 1959 are required to prevent smuggling and are authorised to exercise all the powers conferred by Chapter XVII of the Sea Customs Act, 1878 (8 of 1878), on officers of Customs duly employed in the prevention of smuggling.

[No. 26 F. No. 22/2/58-Cus. IV.]

M. A. RANGASWAMY, Secy.

CUSTOMS

New Delhi, the 21st February 1959

S.O. 405.—In exercise of the powers conferred by section 130 of the Sea Customs Act, 1878 (8 of 1878), as in force in India and as applied to the State of Pondicherry, the Central Board of Revenue hereby makes the following further amendment in its notification No. 50-Cus., dated the 19th May, 1951, namely:—

In the said notification, for the words "Madras, Nagapattinam and Cochin", wherever they occur, the words "Madras, Nagapattinam, Tuticorin and Cochin" shall be substituted.

[No. 30-F. No. 52/3/58-L.C. II.]

S.O. 406.—In exercise of the powers conferred by section 128 of the Sea Customs Act, 1878 (8 of 1878), the Central Board of Revenue directs that Tuticorin in the State of Madras shall be added to the list of ports mentioned in that section in which the Customs Collector may, on application by the owner of any goods imported into such ports and specially and distinctly manifested at the time of importation as for transhipment to some other customs or foreign port, grant leave to tranship the same without payment of the duty (if any) leviable at such port of transhipment and without any security or bond for the due arrival and entry of the goods at the port of destination.

[No. 31-F. No. 52/3/58-L.C. II.]

S.O. 407.—In exercise of the powers conferred by section 133 of the Sea Customs Act, 1878 (8 of 1878), the Central Board of Revenue hereby prescribes a transhipment fee of two annas per bale or package irrespective of size, value weight or contents, subject to a minimum fee of rupees two and a maximum fee of rupees forty in respect of each application for transhipment of goods at the port of Tuticorin in the State of Madras.

(2) For the purpose of these orders, each ton of iron, oil, timber or other articles in bulk or any fraction thereof shall be reckoned as one package.

[No. 32-F. No. 52/3/58-L.C. II.]

M. C. DAS, Secy.

THE MADRAS CENTRAL EXCISE COLLECTORATE

*Madras, the 4th February 1959**Amendment to Notification C. No. VI/0/21/4/56 B. 2, dated 14-4-56*

S.O. 408.—In this Collectorate Notification—Central Excise C. No. VI/0/21/4/56 B.2 dated 14th April, 1956, the following amendments may be made.

In the form Appendix V Bulk Soap Account (Laundry and washing)—annexed to the said notification, please insert the following* new columns Nos. 8 and 9 and renumber the existing columns "8 to 10" as "10 to 12"

* Issued for stamping	
Number of slabs or moulds	Net weight Cwts. qr. lbs.
8	9

[No. C. VI/0/21/35/58 CE Pol.]

S. P. KAMPANI, Collector.

CENTRAL EXCISE COLLECTORATE, DELHI

CENTRAL EXCISE

New Delhi, the 10th February 1959

S.O. 409.—This office Notification issued under S.R.O. 1304, dated the 27th April, 1957 and endorsement C. No. IV (8)1/57/36530, dated the 27th July, 1957 declaring certain specified Central Excise Officers to be the "Proper Officer" for the purpose of the Rules mentioned therein, are hereby cancelled.

[No. C. IV.(8)/2/58.]

B. D. DESHMUKH, Collector.

CENTRAL EXCISE COLLECTORATE, ALLAHABAD

Allahabad, the 13th February 1959

Amendment No. 8/59 to Notification No. 5/58

S.O. 410.—For the schedule appended to this Collectorate Notification No. 5/58, published on pages 813 to 814 of Part II—Section 3, Sub-Section (ii) of the Gazette of India, dated the 31st May, 1958, substitute the schedule as appended hereto.

Schedule showing Revenue jurisdiction of areas in Allahabad Collectorate exempted under rule^s 15 and 16 of Central Excise Rules 1944.

Sl. No.	Name of Districts or Portions thereof	Exempted area in cents
1	2	3
1	Entire Varanasi District	5
2	Entire Mirzapur district	7
3	Entire Jaunpur district except parganas Darlapur and pisara of Kerakat tehsil	5
4	Entire Allahabad district except Sirathu and Manjanpur tehsils and areas within Municipal limits of Allahabad city	6
5	Patti and Partapgarh tehsils of Partapgarh district	5
6	Azamgarh Sadar Tehsil except area within the Municipal limits of Azamgarh City and Parganas Atraulia and Korla of Phulpur Tehsil and while of Lal-ganj Tehsil excluding Pargana Deogaon of Azamgarh District	5
7	Entire Gorakhpur district	6
8	Entire Deoria district	7
9	Tehsil Mahroni, Lalitpur, Girotha and Mauranipur of Jhansi district	5
10	Tehsil Mau, Kasvi, Narani and Banda of Banda District	5
11	Entire Etawah district except Lakhna pargana	8
12	Entire Kanpur district except Bilhaur tehsil	5

Sl. No.	Name of districts or portions thereof	Exempted area in cents
13	Entire Meerut district except Municipal and Cantonment areas of Meerut Town, Municipal area of Ghaziabad town and town area of Moradnagar	7
14	Entire Bulandshahar district except Sikandarabad Municipal area and Khurja Municipal area	5
15	(a) Entire Dehradun district except Jwalapur pargana of Rurki tehsil	8
	(b) Jwalapur pargana of Rurki tehsil	5
16	Entire Saharanpur district	8
17	Entire Muzaffarnagar district	8
18	Entire Agra district except Firozabad tehsil	6
19	Entire Aligarh district except Koel and Hathras tehsils	6
20	Entire Mathura district except Sadabad tehsil	5
21	Entire Mainpuri district except Bhogaon tehsil	5
22	Entire Bilram and Pachlana parganas of Kasganj tehsil and parganas Etah-Sakit and Sonhar of Etah tehsil of Etah district	5
23	Entire Bareilly district except Bareilly Municipal area	6
24	Entire Pilibhit district	6
25	Entire Budaun district except Budaun Municipal limits and Sahaswan town of Sahaswan tehsil	5
26	Entire Moradabad district except Sambhal tehsil	5
27	Entire Bijnor district	5
28	Entire Shahjahanpur district except Shahjahanpur town	5
29	Entire Hardoi District except Bilgram and Shahbad tehsils	5
30	Entire Rampur district	8
31	Entire Almora district	8
32	Entire Nainital district	8
33	Entire Pauri Garhwal district except villages Dhara and Kothirao	8
34	Entire Tehri Garhwal district	10
35	Pargana Tirwa of Kannauj tehsil and Parganas Sakrawa and Sakatpur of Chhibramau tehsil of Farrukhabad district	5
36	Entire Faizabad district except the municipal limits of Ajodhya and Faizabad and Tanda town	5
37	Tehsil Daryabad of Barabanki district	5
38	Entire Sultanpur district	5
39	Entire Rai-Barili district	5
40	Entire Unnao district except Purwa and Safipur tehsil	5
41	Entire Lucknow district except Mohna pargana and municipal limits of Lucknow town	5
42	Entire Lakhimpur district	5
43	Misrikh tehsil and Khairabad, Sitapur, Ramkal and Hargaoon Parganas of Sitapur district	5
44	Entire Gonda district	5
45	Entire Basti district	6
46	Entire Baharaich district	5

[C. No. 523-INT/58/7558.]

N. L. MEHTA, Collector.

**OFFICE OF THE ASSISTANT COLLECTOR OF CENTRAL EXCISE, GOA
FRONTIER DIVISION, BELGAUM**

NOTICES

Belgaum, the 10th February 1959

S.O. 411.—Whereas it appears that the marginally noted goods which were

S. No.	Description	Qty.
1.	Betelnuts.	5 bags contain- ing betelnuts weighing 5 Mds.

seized by the Inspector, Central Excise, Banda in the jurisdiction of Ch. No. 31 in the vicinity of the Indo-Goa Border on 7th June, 1958, were imported by Land from Goa (Portuguese territory in India) in contravention of Section 5(1) of the Land Customs Act, 1924 and the Government of

India, Ministry of Commerce and Industries Import (Control) Order No. 17/55 dated 7th December, 1955, issued under Section 3 of the Imports and Exports (Control) Act, 1947 and further deemed to have been issued under Section 19 of the Sea Customs Act, 1878.

2. Now, therefore, any person claiming the goods is hereby called upon to show cause to the Assistant Collector of Central Excise, and Land Customs Goa Frontier Division, Belgaum as to why the above mentioned goods should not be confiscated under Section 5(3) of the Land Customs Act, 1924 read with Section 167(8) of the Sea Customs Act, 1878 and the empty gunny bags under Section 168 of the Sea Customs Act, 1878 and why a penalty should not be imposed on him under Section 7(i)(c) of the Land Customs Act, 1924 read with Section 167(8) of the Sea Customs Act, 1878.

3. If such an owner fails to turn up to claim the above mentioned unclaimed goods or to show cause against the action proposed to be taken within 30 days from the publication of this notice in the Government of India Gazette part II, the goods in question will be treated as unclaimed and the case will be decided accordingly.

[No. VIII(b)10-191/58.]

S.O. 412.—Whereas it appears that the marginally noted goods which were seized by the Inspector, Central Excise F.S. Honawar at a place known as Balehittal in the vicinity of the Indo-Goa Border on 25th September, 1958, were imported by sea from Goa (Portuguese territory in India) in contravention of the Government of India, Ministry of Commerce and Industries Import (Control) Order No. 17/55, dated 7th December, 1955 issued under Section 3 of the Imports and Exports (Control) Act, 1947 and further deemed to have been issued under Section 19 of the Sea Customs Act, 1878.

2. Now, therefore, any person claiming the goods is hereby called upon to show cause to the Assistant Collector of Central Excise and Land Customs Goa Frontier Division, Belgaum as to why the above mentioned goods should not be confiscated under Section 167(8) of the Sea Customs Act, 1878 and the empty gunny bags, under Section 168 of the Sea Customs Act, 1878 and why a penalty should not be imposed on him under Section 167(8) of the Sea Customs Act, 1878.

3. If such an owner fails to turn up to claim the above mentioned unclaimed goods or to show cause against the action proposed to be taken within 30 days from the publication of this Notice in the Government of India Gazette Part II the goods in question will be treated as unclaimed and the case will be decided accordingly.

[No. VIII(b)10-360/58.]

S.O. 413.—Whereas it appears that the marginally noted goods which were seized by the S.R.P. Platoon Commander and his party of Kanakumbi, at a place known as Sakharam Varanda in the vicinity of the Indo-Goa Border on 19th December, 1956, were about to be exported by land to Goa (Portuguese territory in India) in contravention of Section 5(1) of the Land Customs Act, 1924 and the Government of India, Ministry of Commerce and Industries Export (Control) Order No. 1/54 dated 10th May, 1954, issued under Section 3 of the Import and Exports (Control) Act, 1947 and further deemed to have been issued under Section 19 of the Sea Customs Act, 1878.

2. Now, therefore, any person claiming the goods is hereby called upon to show cause to the Assistant Collector of Central Excise and Land Customs Goa Frontier Division, Belgaum as to why the above mentioned goods should not be confiscated under Section 5(3) of the Land Customs Act, 1924 read with Section 167(8) of the Sea Customs Act, 1878 and the empty gunny bags under Section 168 of the Sea Customs Act, 1878 and why a penalty should not be imposed on him under Section 7(i)(c) of the Land Customs Act, 1924 read with Section 167(8) of the Sea Customs Act, 1878.

3. If such an owner fails to turn up to claim the above mentioned goods or to show cause against the action proposed to be taken within 30 days from the publication of this notice in the Government of India Gazette part II the goods in question will be treated as unclaimed and the case will be decided accordingly.

[No. VIII(b)15-328/57.]

E. R. SRIKANTIA, Asstt. Collector.

MINISTRY OF COMMERCE AND INDUSTRY

New Delhi, the 31st January 1959

S.O. 414.—In exercise of the powers conferred by sub-section (3) of section 1 of the Standards of Weights and Measures Act, 1956 (89 of 1956), the Central Government hereby appoints the 1st day of November, 1959 as the date on which the provisions of the said Act in so far as they relate to units of mass shall come into force in respect of sugar factories in so far as they undertake the purchase of sugar-cane or sale of sugar.

[No. SMC-15(2)/59/1.]

S.O. 415.—In exercise of the powers conferred by section 14 of the Standards of Weights and Measures Act, 1956 (89 of 1956), the Central Government hereby permits, in respect of sugar factories mentioned in the Notification of the Government of India in the Ministry of Commerce and Industry, S.O. _____ dated the _____, the continuance of the use, for a period of two years from the 1st day of November, 1959, of any weight which, immediately before that date, was in use in respect of the said factories.

[No. SMC-15(2)/59/2.]

K. V. VENKATACHALAM, Jt. Secy.

New Delhi, the 14th February 1959

S.O. 416.—In exercise of the powers conferred by section 8 of the Emblems and Names (Prevention of Improper Use) Act, 1950 (12 of 1950), the Central Government hereby makes the following amendment in the Schedule to the said Act, namely:—

In the said Schedule, after item 9, the following item shall be inserted, namely:—

"9A. The name or pictorial representation of Mahatma Gandhi or the Prime Minister of India."

[No. 13(2)-TMP/58.]

K. RAJARAMAN, Under Secy.

(Department of Company Law Administration)

New Delhi, the 14th February 1959

S.O. 417.—In exercise of the powers conferred by clause (a) of sub-section (1) of Section 448 of the Companies Act, 1956 (I of 1956), the Central Government hereby appoints Shri Mali Ram Agarwal Munsarim, District Court, Kotah to be the *ex-officio*, Official Liquidator attached to District Court, Kotah with effect from the date he assumes charge until further orders.

[No. 2(13)-C.L.III/56.]

P. B. SAHARYA, Under Secy.

(Indian Standards Institution)

New Delhi, the 10th February, 1959

S.O. 411.—In pursuance of sub-regulation (1) of regulation 8 of the Indian Standards Institution (Certification Marks), Regulations 1955, the Indian Standards Institution hereby notifies that licences, particulars of which are given in the Schedule hereto annexed, have been granted authorizing the licensees to use the Standard Mark.

THE SCHEDULE

Serial No.	Licence No. and Date	Period of Validity		Name and Address of the Licensee	Article/Process covered by the Licence	Relevant Indian Standard
		From	To			
1	CM/L-115 28-1-1959	16-2-1959	15-2-1960	M/s. Kamal Brothers, 20, Harish Neogi Road, Calcutta-4.	Tea-Chest Plywood Panels	IS:10-1953 Specification for Plywood Tea-Chests (Revised)
2	CM/L-116 3-2-1959	16-2-1959	15-2-1960	M/s. Minerva Plywood Industries, 43/H/1, Chaulpatty Road, Calcutta-10.	Do	Do.

[No. MDC/12(278)—L.]

New Delhi, the 11th February, 1959

S. S.O. 419.—In pursuance of sub-regulation (1) of regulation 8 of the Indian Standards Institution (Certification Marks) Regulations, 1955, the Indian Standards Institution hereby notifies that 7 licences, particulars of which are given in the Schedule hereto annexed, have been renewed.

THE SCHEDULE


Sl. No.	Licence No. and date	Period of Validity		Name and Address of the Licensee	Article covered by the Licence	Relevant Indian Standard
		From	To			
1	CM/L-44 20-1-1958	1-2-1959	31-1-1960	M/s. Shalimar Tar Products (1935) Ltd., 6 Lyons Range, Calcutta-1.	Napthalene	IS : 539-1955 Specification for Napthalene.
2	CM/L-51 20-1-1958	Do.	Do.	M/s. Jeypore Timber and Veneer Mills Private Ltd., Dibrugarh, District Lakhimpur.	Tea-Chest Plywood Panels	IS : 10-1953 Specification for Plywood Tea-Chests (Revised)
3	CM/L-57 20-1-1958	1-2-1959	31-1-1962	M/s. Assam Valley Plywood Private Ltd., 67-B Netaji Subhas Road, Calcutta-1.	Do.	Do.
4	CM/L-61 20-1-1958	1-2-1959	31-1-1960	M/s. Assam Saw Mills and Timber Co Ltd., Chartered Bank Buildings, Calcutta-1.	Do.	Do.
5	CM/L-64 7-2-1958	1-3-1959	29-2-1960	Assam Forest Products Private Ltd., Dibrugarh, Dist. Lakhimpur.	Do.	Do.
6	CM/L-68 7-2-1958	1-3-1959	29-2-1960	Varat Plywood, 67-B, Netaji Subhas Road, Calcutta-1.	Do.	Do.
7	CM/L-70 7-2-1958	Do.	Do.	The Standard Furniture Co. Ltd., Chalakudi.	Do.	Do.

[No. MDC/12(175)-L.]

S.O. 420—In pursuance of sub-rule (1) of rule 4 of the Indian Standards Institution (Certification Marks) Rules, 1955, the Indian Standards Institution hereby notifies that the Standard Mark, design of which together with the verbal description of the design and the title of the relevant Indian Standard is given in the Schedule hereto annexed, has been specified.

This Standard Mark, for the purpose of the Indian Standards Institution (Certification Marks) Act, 1952 and the rules and regulations framed thereunder, shall come into force with effect from 20th February, 1959/1st Phalguna 1880 (Saka).

THE SCHEDULE

Design of the Standard Mark	No. and title of relevant Indian Standard	Verbal description of the design of the Standard Mark
(1)	(2)	(3)
	IS : 25—150 Specification for Antifriction Bearing Alloys.	The Monogram of the Indian Standards Institution, consisting of letters ISI, drawn in the exact style and relative proportions as indicated in column (1), the number designation of the Indian Standard being inscribed in the top side and the relevant IS grade designation being inscribed in the bottom side of the monogram as indicated in the design for 'A' in column (1).

[No. MDC/II (5)].

S.O. 421—In pursuance of sub-regulation (3) of regulation 7 of the Indian Standards Institution (Certification Marks) Regulations, 1955, the Indian Standards Institution hereby notifies that the marking fee per unit for Antifriction Bearing Alloys details of which are given in the Schedule hereto annexed, has been determined and the fee shall come into force with effect from 20th February, 1959/1st Phalguna, 1880 (Saka).

THE SCHEDULE

Sl. No.	Product/Class of Products	No. and title of relevant Indian Standard	Unit	Marking Fee per Unit
1	Antifriction Bearing Alloys.	IS : 25—150 Specification for Antifriction Bearing Alloys.	One Cwt.	Rs. 4.90

[No. MDC/II (6).]

C. N. MODAWAL,
Deputy Director (Marks)

MINISTRY OF FOOD AND AGRICULTURE

(Dept. of Agriculture)

THE GENERAL CENTRAL SERVICE CLASS I AND CLASS II POSTS (INDIAN VETERINARY RESEARCH INSTITUTE) RULES, 1959

New Delhi the 9th February, 1959

S.O. 422—In exercise of the powers conferred by the proviso to Article 309 of the Constitution the President hereby makes the following rules for recruitment to General Central Service, Class I and Class II posts at the Indian Veterinary Research Institute, Mukteswar/Izatnagar, namely:—

1. **Short title and commencement**—(i) These rules may be called the General Central Service, Class I and Class II posts (Indian Veterinary Research Institute) Rules, 1959.

(ii) They shall come into force at once.

2. **Posts and scales of pay**—The posts to which these rules apply and the scales of pay attached to them shall be as specified in Column 2 of the Schedule to these rules.

3. **Method of recruitment, etc.**—The method of recruitment to the posts and age and other qualifications and the period of probation therefor shall be as specified in Columns 3 to 6 of the Schedule to these rules.

THE SCHEDULE (See Rules 2 and 3)

Sl. No.	Name of posts or Service with scale of pay	Method of recruitment	Age limits	Qualifications required	Period of probation
1	2	3	4	5	6
1.	Refrigeration Engineer, Indian Veterinary Research Institute, IZATNAGAR. Rs. 600-40-1,000-1,000-1050-1,050-1,100-1,100-1,150.	By direct recruitment through Union Public Service Commission.	Below 40 years.	(i) Degree or equivalent diploma from a recognised University or Institute in Mechanical or Electrical Engineering preferably with refrigeration and Air-conditioning as one of the subjects. OR Diploma or its equivalent in Refrigeration and Air-conditioning of a recognised Institute. (ii) About 3 years' experience in installation and independent maintenance of large Air-conditioned and cold storage plants of Industrial type. (Qualifications relaxable at Commission's discretion in case of candidates otherwise well qualified.)	Six months
2.	Accounts Officer, Indian Veterinary Research Institute IZATNAGAR, Rs. 275-25-500-EB-30-650-EB-30-800.	By deputation OR Transfer of a qualified officer from any of the organised Accounts services (SAS) of the Auditor General, Ministry/Accounts Department, etc. If none suitable, by direct recruitment through Union Public Service Commission.	Below 40 years.	ESSENTIAL (i) Degree of a recognised University or Associate Membership of the Institute of Chartered Accountants or equivalent. (ii) About three years' experience both in Commercial and Cost Accounts in a Government Office in a responsible capacity. (Qualifications relaxable at Commission's discretion in case of candidates otherwise well qualified.)	One year

1	2	3	4	5	6
3.	Stores Officer, Indian Veterinary, Research Institute, IZATNAGAR. Rs. 275-25-500- EB-30-650-EB- 30-800.	By direct recruitment through Union Public Service Commission.	Below 35 years.	<p>ESSENTIAL</p> <p>(i) Degree of a recognised University.</p> <p>(ii) Training in identifying, purchase and maintenance of technical stores and in the keeping of stores accounts.</p> <p>(iii) About 3 years' experience in responsible capacity in Government Department or in a public body or in a private concern of repute.</p> <p>(Qualifications relaxable at Commission's discretion in case of candidates otherwise well qualified.)</p>	Two years.

[No. 9-127/57-L]

K. C. SARKAR, Under Secy.

MINISTRY OF HEALTH

New Delhi, the 14th February 1959

S.O. 423.—In exercise of the powers conferred by sub-sections (1) and 2(e) of section 3 of the Prevention of Food Adulteration Act, 1954 (37 of 1954), the Central Government hereby makes the following further amendment in the Notification of the Government of India, Ministry of Health No. S.R.O. 1236 dated the 1st June, 1955, namely:—

In the said Notification, in entry No. 15 for the words "Deputy Director, Health Services, Punjab", the words "Joint Director Health Services, Punjab" shall be substituted.

[No. F. 14-3/59-PH.]

T. V. ANANTANARAYANAN, Under Secy.

MINISTRY OF TRANSPORT AND COMMUNICATIONS

(Department of Transport)

(Transport Wing)

MERCHANT-SHIPING

New Delhi, the 12th February 1959

S.O. 424.—In pursuance of clause (ii) of sub-rule (2) of rule 1 of the Indian Merchant Shipping (Load Line) Rules, 1934, the Central Government hereby appoints the Norwegian Ships Classification Society 'Det Norske Veritas' to be an Assigning Authority for the purposes of the said Rules.

[No. F. 42-MA(6)/57.]

S. K. VENKATACHALAM, Dy. Secy.

(Department of Transport)

(Transport Wing)

PORTS

New Delhi, the 12th February 1958

S.O. 425.—In pursuance of sub-section (1) of section 6 of the Bombay Port Trust Act, 1879. (Bombay Act 15 of 1879), and in supersession of the Ministry of Transport Notification No. 19-PG (177)/49, dated the 27th February 1951, it is hereby notified that each of the bodies representing the commercial interests specified in column (2) of the table below, shall elect the number of Trustees of the Port of Bombay specified against it in column (3) thereof :—

S. No.	Name of Body	Number of Trustees
(1)	(2)	(3)
1.	Indian Merchants' Chamber, Bombay	4
2.	Bombay Chamber of Commerce and Industry	2
3.	Indian National Steamship Owners' Association	2
4.	All India Sailing Vessels Industries Association	1
5.	Maharashtra Chamber of Commerce	1
6.	East India Cotton Association	1
7.	Milowners' Association, Bombay	1

[No. 1-PG.(49)/58.]

K. NARAYANAN, Dy. Secy

MINISTRY OF WORKS, HOUSING AND SUPPLY

New Delhi, the 9th February 1959

S.O. 426.—In pursuance of the provisions of rule 45 of the Fundamental Rules, the President hereby directs that the following further amendments shall be made in the Supplementary Rules published with the Government of India, Finance Department letter No. 104-C.S.R., dated the 4th February, 1922, namely:—

In part VIII of the said Rules, in Division XXVI-B,

(1) for clause (d) of Supplementary Rule 317-B-2, the following clause shall be substituted, namely:—

“(d) ‘family’ includes only the wife or husband, as the case may be, children, step-children, parents, brothers and sisters ordinarily residing with, and wholly dependent on, an officer;” and

(2) in Supplementary Rule 317-B-6, after sub-rule (3), the following sub-rule shall be inserted, namely:—

“(4) (a) An officer shall not be allotted any residence, if the officer's wife or husband, as the case may be, has already been allotted a residence, unless that residence is surrendered;

(b) If when this sub-rule comes into force a husband and wife are in occupation of two separate residences, they shall surrender one of the two residences within one month of the coming into force of this rule;

(c) If two officers who are in occupation of two separate residences marry each other, they shall surrender one of the two residences within one month of the marriage;

(d) If one of the two residences occupied by a husband or wife is not surrendered as provided in clause (b) or (c), the allotment of the residence with lower living area shall be deemed to have been cancelled on the expiry of the aforesaid period of one month;

Provided that where both the residences have the same living area, the allotment of such one of them as the Estate Officer may specify shall be deemed to have been so cancelled.

- (e) Nothing in this sub-rule shall apply where the husband and wife are residing separately in pursuance of an order of judicial separation made by any court."

[No. 3/20/58-Acc/I.]

S.O. 427.—In pursuance of the provisions of rule 45 of the Fundamental Rules, the President hereby directs that the following further amendments shall be made in the Special Accommodation Rules, 1950, issued with the notification of the Government of India in the late Ministry of Works, Mines and Power No. WIV-15(3)/III, dated the 19th January, 1950, namely:—

In the said rules,

- (1) for clause (d) of rule 3, the following clause shall be substituted, namely:—

"(d) 'family' includes only the wife or husband, as the case may be, children, step-children, parents, brothers and sisters ordinarily residing with, and wholly dependent on, an officer;" and

- (2) in rule 7, after sub-rule (3), the following sub-rule shall be inserted, namely:—

"(4) (a) An officer shall not be allotted any residence, if the officer's wife or husband, as the case may be, has already been allotted a residence at the same place, unless that residence is surrendered;

(b) If when this sub-rule comes into force a husband and wife are in occupation of two separate residences at the same place, they shall surrender one of the two residences within one month of the coming into force of this rule;

(c) If two officers who are in occupation of two separate residences at the same place, marry each other, they shall surrender one of the two residences within one month of the marriage;

(d) If one of the two residences occupied by a husband or wife is not surrendered as provided in clause (b) or (c), the allotment of the residence with lower living area shall be deemed to have been cancelled on the expiry of the aforesaid period of one month:

Provided that where both the residences have the same living area, the allotment of such one of them as the Estate Officer may specify shall be deemed to have been so cancelled.

- (e) Nothing in this sub-rule shall apply where the husband and wife are residing separately in pursuance of an order of judicial separation made by any court."

[No. 3/20/58-Acc/II.]

R. C. MEHRA, Under Secy.

MINISTRY OF LABOUR & EMPLOYMENT

New Delhi, the 11th February 1959

S.O. 428.—In exercise of the powers conferred by section 8 of the Coal Mines Labour Welfare Fund Act, 1947 (32 of 1947), read with rule 3 of the Coal Mines Labour Welfare Fund Rules, 1949, the Central Government hereby appoints Mr. D. Hogg, a person nominated by the Indian Mining Association, as a member of the Coal Mines Labour Welfare Fund Advisory Committee constituted in the notification of the Government of India in the Ministry of Labour & Employment No. S.R.O. 3266, dated the 8th October, 1957 *vice* Shri R. Maulik resigned, and makes the following further amendment in the said notification namely:—

For the entry "7. Shri R. Maulik", the entry "7. Mr. D. Hogg" shall be substituted.

[No. MII.3(3)/59.]

P. N. SHARMA, Under Secy.

New Delhi, the 11th February 1959

S.O. 429—Whereas immediately before the Employees' Provident Funds Act, 1952 (19 of 1952), became applicable with effect from the 31st July 1956 to the factories known as (i) Messrs. Lipton Ltd., Calcutta Factory, 9-B, Weston Street, Calcutta, (ii) Messrs. Lipton Ltd., Naini Factory, P.O. Naini, Allahabad, and (iii) Messrs. Lipton Ltd., Brindaban Properties, Brindaban, Wellington Bazar, P.O. Nilgiri, there was in existence a provident fund common to the employees employed in the said factories, to which the said Act applies and the employees in the establishments specified in the Schedule hereto annexed;

Now, therefore, in exercise of the powers conferred by section 3 of the said Act, the Central Government hereby directs that the provisions of that Act shall also apply to the said establishments.

SCHEDULE

1. Messrs. Lipton Ltd., Head Office, 9-B, Weston Street, Calcutta-1
2. Messrs. Lipton Ltd., Aspinwall's Building, Fort, Cochin, South India.
3. Messrs. Lipton Ltd., 35, Chittaranjan Avenue, Calcutta.
4. Messrs. Lipton Ltd., Illaco House, Sir Firozeshah Mehta Road, Bombay.
5. Messrs. Lipton Ltd., Oriental Building, Relief Road, Ahmedabad.
6. Messrs. Lipton Ltd., 129, Moore Street, George Town, Madras.
7. Messrs. Lipton Ltd., Indian Mutual Building, Mount Road, Nagpur.
8. Messrs. Lipton Ltd., 8/3, Asafali Road, Ajmere Gate Extension, New Delhi.

[No. PF.II-9(30)/58.]

New Delhi, the 13th February 1959

S.O. 430/PWA/Mines/Rules/Am. 5.—The following draft of a further amendment to the Payment of Wages (Mines) Rules, 1956, which the Central Government proposes to make in exercise of the powers conferred by sub-sections (2) and (3) of section 26, read with section 24, of the Payment of Wages Act, 1936 (4 of 1936), is published as required by sub-section (5) of section 26 of the said Act for the information of all persons likely to be affected thereby, and notice is hereby given that the said draft will be taken into consideration on or after 20th May, 1959.

Any objection or suggestion which may be received from any person with respect to the said draft before the date specified will be considered by the Central Government. Such objection or suggestion may be addressed to "The Secretary to the Government of India, Ministry of Labour & Employment, New Delhi"

Draft Amendment

In the said Rules—

after rule 5, the following rule shall be inserted, namely:—

"5A. The register required to be maintained under the Mines Rules, 1955, in Form 'B' in the first Schedule to those rules shall be deemed to be required to be maintained under these rules also."

[No. Fac. 49(22)/58.]

P. D. GAIHA, Under Secy

New Delhi, the 12th February 1959

S.O. 431—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to the Kankance Colliery, P.O. Bansjora, and their workmen.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DHANBAD

REFERENCE NO. 41 OF 1958

PARTIES:

Employers in relation to the Kankanee Colliery, P.O. Bansjora, Dt. Dhanbad.

AND

Their workmen.

Dhanbad, dated the 3rd February 1959

PRESENT:

Shri Salim M. Merchant, B.A., LL.B.—Chairman.

APPEARANCES:

Shri Raha, and later Shri Basu Thakur, Solicitors, Messrs. Orr Dignam & Co., Solicitors—for the Eastern Coal Co. Ltd.
(in liquidation)

Shri S. S. Kapoor Labour Welfare Officer, and later Shri B. P. Chaudhury, Pleader—for Messrs. Bhowra Kankanee Collieries Limited.

Shri D. Narsingh, Advocate, with Shri S. Das Gupta, Secretary, Colliery Mazdoor Sangh—for the workmen.

State: Bihar.

AWARD

The Government of India, Ministry of Labour & Employment, was pleased by its order No. LR.II-2(10)/58, dated 24th June 1958 made in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (XIV of 1947), to refer to me for adjudication the dispute with regard to the subject matters specified in the following schedule to the said order.

"Whether the superannuation of Shri H. C. Chakravarty, Personnel Officer, Kankanee colliery, is justified or not? In either case, what relief he is entitled to and from whom i.e. the present or the old management."

2. After the usual notices were issued the Colliery Mazdoor Sangh (herein-after referred to as the Union) representing the workmen in this dispute filed the statement of claim on 25th July 1958. The Bhowra Kankanee Collieries Limited filed their written statement in reply thereto on 8th August 1958 and the written statement on behalf of the Eastern Coal Co. Limited (in liquidation) was filed on 15th September, 1958. It may be stated here that this company went into voluntary liquidation by a special resolution passed at an extraordinary general meeting of its members held at Calcutta on 26th June 1958, two days after the date of the Government notification dated 24th June 1958 referred this dispute for adjudication. Thereafter, the union on 10th October 1958 filed a rejoinder to the written statement filed by the old employers, who in turn filed their rejoinder in reply thereto dated 28th October, 1958.

3. The facts relating to the dispute are that Shri H. C. Chakravarty had originally joined the service of Messrs. Eastern Coal Co. Ltd. in their Amlabad Colliery on 2nd March 1925. That company owned three other collieries namely, (1) Bhowra Colliery, (2) Pootkee colliery and (3) Kankanee Colliery. It is admitted that from 1925 to 1949 Chakravarty was working as a loading clerk and was appointed Personnel Officer for the first time on 1st January 1949 and that subsequently he was transferred to the Bhowra colliery and continued to work there as Welfare Officer till 1st January 1955, when the four collieries of Eastern Coal Co. Ltd. were sold to Messrs. Bhowra Kankanee Collieries Limited, of which Messrs. Karamchand Thapar Bros. Private Limited are the managing agents, as going concerns. It appears that the sale price of the said collieries was originally agreed at Rs. 60 lacs and subsequently, as recorded in the letter dated 23rd October 1954 addressed by Messrs. Macneill & Barry Limited, who were the managing agents of the Eastern Coal Company Limited, to Messrs. Karamchand Thapar Bros. Private Limited (Exhibit E-5), the sale price was increased from Rs. 60 lacs to Rs. 62 lacs on Bhowra Kankanee Collieries Limited accepting the responsibility and liability for all retrenchment and retrenchment compensation and they were allowed abatement of Rs. 5 lacs in the sale price in respect of such retrenchment compensation. It was further agreed that Messrs. Bhowra Kankanee Collieries Limited would take over all the existing staff and labour on their

existing terms and conditions of serv co. The Eastern Coal Co. Ltd. had a pension scheme and it was further agreed that the liability for pensions which was then being paid by the company would be that of the Eastern Coal Co. Ltd. It will thus be seen that Messrs. Bhowra Kankanee Collieries Limited took over the said 4 collieries including the Bhowra colliery as going concerns and agreed to treat the services of the workmen of the four collieries as continuous with their past services and agreed to take all responsibility for retrenchment compensation while the responsibility for payment of pension remained that of the Eastern Coal Co. Limited. Thereafter, the transfer of the collieries took effect from 1st January, 1955.

4. On 24th December 1954, the Bhira Colliery Mazdoor Sangh (as this union was then designated) served a notice on the Manager, Bhowra Colliery under sub-section (1) of Section 22 of the Industrial Disputes Act 1947 of its intention to call a strike on and from 10th January 1955 for the reasons stated in the annexure to the said notice. (Exhibit EE-1 and EE-2 being annexure A and B to the written statement of the Bhowra Kankanee Collieries Limited). The annexure to the Union's strike notice contained in all 8 demands. The demands were prefaced by the union stating that, "in view of the fact that the Bhowra, Amlabad, Kankanee and Pootkee collieries of Messrs. Eastern Coal Co. Ltd. have been purchased and are going to be taken over by Bhowra Kankanee Collieries Limited on and from 1st January 1955 and also in view of the fact that neither the selling or the purchasing company has agreed to give any assurance to the employees concerned regarding their service conditions, existing facilities and privileges, pension etc. it is demanded....." Then followed the eight demands. Of these 8 demands the material demands for the purposes of this dispute are demand Nos. 1, 2, 3, 4, 6 and 7 which are reproduced below:—

- “(1) that the service conditions of all the employees including their grading, increments, leave etc. should remain unaltered under the management of the Purchaser Company.
- (2) that the existing facilities and the privileges including medical facilities, free supply of kerosene, electricity, accommodation and other materials should not be curtailed after 31st December 1954.
- (3) that the privilege of pension scheme which forms one of the service conditions should remain in force even after the change over and the employees who are being retrenched or forced to retire should get retrenchment compensation over and above the pension due. The purchaser company should also be held responsible for payment of all such pensions.
- (4) that the change of ownership should not mean any break in the service of the employees. The continuity of service of each employee should be maintained and the length of service should be calculated from the date of his first appointment under either Messrs. Eastern Coal Company Ltd. or Messrs. Equitable Coal Co. Ltd. or M/s. Horrilladih Coal Co. Ltd.
- (6) that the employees of the above four collieries should not be governed by the service rules of Messrs. Karamchand Thapar & Bros. Ltd. The certified standing orders in force for the colliery should only be followed.
- (7) that none of the employees should be transferred from the above four collieries to any other colliery under Messrs. Karamchand Thapar & Bros. Ltd. Whenever necessary *bonafide* transfer shall be effected within these four collieries only.”

Upon this strike notice being serviced the matter was taken up in conciliation by the Conciliation Officer (C), Dhanbad-II and a settlement was reached on 14th January 1955. A copy of the terms of settlement is on record being Exhibit EE-3 (Annexure 'C' to the written statement of the Bhowra Kankanee Collieries Limited herein). These terms of settlement were signed by Shri P. C. Bose, Vice-President and Mr. Das Gupta, Secretary, Bihar Colliery Mazdoor Sangh on behalf of the workmen, by Shri S. K. Bhattacharyya, on behalf of Eastern Coal Co. Ltd. and Shri Madan Lal on behalf of Bhowra Kankanee Collieries Limited and the same are attested by the Conciliation Officer (Central) Shri I. B. Sanyal. Under clause 1 of the terms of settlement the union agreed to withdraw its strike notice on 24th December 1954 with immediate effect and under clause 2 Messrs. Bhowra Kankanee Collieries Limited agreed to treat as continuous the services

of the workmen who were taken over by them. Clause 3 of the settlement recorded that it was agreed that the existing service conditions and facilities would be continued, excepting pension, the responsibility for which will be borne by the Eastern Coal Co. Ltd., according to the existing rules and that the question of payment of pension is now left over for amicable settlement between Eastern Coal Co. Ltd. and the union, and that Messrs. Bhowra Kankanee Collieries Limited would have no liability regarding pension for past and future services of the workmen. Clause 5 of the agreement provided that it was agreed that the other demands were dropped by the union.

5. With regard to Chakravarty it is admitted that his services were continued by Messrs. Bhowra Kankanee Collieries Limited with effect from 1st January, 1955 and he worked as the Personnel Officer of the Kankanee Colliery. It is further admitted that the date of birth of Chakravarty is 19th September 1900 and that he had completed 29 years and 10 months service at the time of the purchase of the said collieries by Messrs. Bhowra Kankanee Collieries Limited on 1st January 1955.

6. Thereafter, on 26th October 1956, Messrs. Bhowra Kankanee Collieries Ltd. served a letter on H. C. Chakravarty stating that in terms of service rules 11(c) [of Messrs. Karamchand Thapar Bros. (P) Limited] he would automatically retire from service of the company on 31st March 1957 being over 55 years of age on that date and that all benefits due as per rules of retirement on that age would be available to him. The letter concluded by stating, "the management congratulates you on your having attained an age when you will be able to enjoy your hard earned rest having served the company for over a number of years." (Annexure A-1 to the Union's statement of claim). To this letter, Chakravarty replied on 24th November 1956 stating that though he was 55 years on age on 31st March 1957 he was still physically and mentally quite fit and would be able to serve the company for at least another 5 years. He concluded by saying, "that besides I do not like to embarrass you by telling that I have been serving since 1925 in the service of the Eastern Coal Co. Ltd. preceding owners I was to serve them till I was fit." (Annexure A-2 to the written statement of claim.) Thereafter, on 25th March, 1957, the Manager of the Bhowra Kankanee Collieries Limited wrote to Chakravarty informing him that, "you are being automatically retired from service of the company on 31st March 1957 on your attaining the age of 55 years and request you to take final settlement of dues upto and including 31st March 1957 from his office." (Annexure A-3 to the Union's statement of claim.) To this Chakravarty replied on 1st April 1957 challenging his retirement from service on the ground that he was not governed by the present service rules of Messrs. Karamchand Thapar Bros. (P) Limited as his original appointment was under Eastern Coal Co. Limited and while taking over, this company had agreed to continue his service without making any change in the conditions thereof. He urged that his compulsory retirement from service was not only unfair but also not warranted by any rules of service applicable to him. He stated that he was physically fit to continue in service for quite a number of years and prayed that the company should reconsider the matter and allow him to continue in service of the company as long as he was physically fit to discharge his normal duties.

When these requests did not receive any reply from the company, the Colliery Mazdoor Sangh took up the cause of this workman and on 9th April 1957, it addressed a letter to the Regional Labour Commissioner (Central), Dhanbad, asking him to intervene in the dispute and "direct the management to reinstate Shri H. C. Chakravarty immediately with full wage for the period of his involuntary idleness." (Exhibit W-J). The same demand was repeated in a subsequent letter dated 17th June 1957 addressed by the Secretary of the Union to the Regional Labour Commissioner (Central), Dhanbad (Exhibit W-K).

8. The conciliation proceedings before the Regional Labour Commissioner not having resulted in settlement, the Government was pleased to refer this industrial dispute for adjudication to me under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, as stated above.

9. On these facts, the Union in its written statement of claim contends that the superannuation of Chakravarti from service by the Bhowra Kankanee Collieries Limited with effect from 1st January 1955 had amounted to retrenchment as defined by Section 2(oo) of the Industrial Disputes Act, 1947 and as the procedure prescribed by Section 25F of the Act and Rule 76 thereof had not been followed, his superannuation was illegal and he should be declared to be continuing in service. The Union further contends that the service rules of Messrs. Karamchand Thapar Bros. (Private) Limited did not apply to Chakravarti who

was governed by the certified Standing Orders applicable to the Kankanee Colliery and as the same, as also the service conditions of the Eastern Coal Company Limited on which the services of Shri Chakravarti were continued with the Bhowra Kankanee Collieries Limited in the Kankanee Colliery, also did not provide any stipulation on the point of retirement and with regard to the age of retirement, his retirement from service merely on the ground of his having passed the age of 55 years under the service rules of Karamchand Thapar Bros. (Private) Limited was illegal. The Union has, therefore, prayed that the retrenchment of Chakravarti be declared to be illegal and void and he be deemed to be in service; that the management be directed to pay him his full wages and bonus dues till the date of the award; that the Bhowra Kankanee collieries Limited be directed to pay him retrenchment compensation for his services commencing from 1st March 1925 till the date of the award. The Union by para 17 of its written statement has claimed pension for Chakravarti from Messrs Macneill & Barry Limited, as per the pension rules in force on 31st December 1954, the date when the collieries were sold to the present management. I may state that after the Eastern Coal Co. Limited had in its written statement pleaded that the claim for pension could not be maintained against Messrs. Macneill & Barry Limited who were only its Managing Agents, and not the owners of the Kankanee Colliery or the employers of Shri Chakravarti, the union by a subsequent application dated 31st October 1958 sought permission to amend its written statement for substituting the name of Messrs. Macneill & Barry Limited by the name of the Eastern Coal Co. Limited on the ground that the former name had been mentioned by over-sight for that of Eastern Coal Company Limited. This amendment was opposed by the Eastern Coal Company Limited by its statement of objection dated 13th November 1958 but as I was satisfied that the mistake in the mention of the name of Messrs. Macneill & Barry Limited was due to an over-sight, and that they were only the Managing Agents of the Eastern Coal Company Limited who were the old employers and that it was the Eastern Coal Co. Ltd. who are liable to pay pension, if Chakravarti was entitled to any by my separate order dated 6th December 1958, I allowed the amendment sought for by the union.

10. The Bhowra Kankanee Collieries Limited, the present owners of the Kankanee colliery in its written statement dated 8th August 1958 admits the purchase of the four collieries by it from the Eastern Coal Company Limited with effect from 1st January 1955. It further admits that under the settlement of 14th January 1955, it agreed to treat as continuous the service of the workmen taken over by them and to continue their then existing service conditions and facilities, except with regard to pension, the responsibility and liability for which remained that of the Eastern Coal Company Limited. The company admits that the services of Chakravarti were continued by it and further it was conceded at the hearing that on the date he was superannuated from service by it with effect from 31st March 1957, he was a "workman" as defined by Section 2(s) of the Industrial Disputes Act, 1947, but it contends that the superannuation was a valid one because he was governed by the Service Rules of its Managing Agents, Messrs. Karamchand Thapar Bros. (Private) Limited, Rule 11(c) of which provides for retirement of an employee on reaching the age of 55 years. For its assertion that Chakravarti was governed by the service rules of Messrs. Karamchand Thapar & Bros. Limited, it relies upon clause 5 of the terms of settlement, dated 14th January 1955, which recorded that the union had dropped all the other demands, which it had made under its strike notice dated 24th December 1954—except those on which a settlement had been reached, and that under the demands dropped was the demand that the service rules of Karamchand Thapar Bros. Limited should not apply. The company, therefore, contends that the superannuation of Chakravarti having been effected under the service rules of Messrs. Karamchand Thapar & Bros. Limited, which according to the company were binding on him, did not amount to retrenchment as it was covered by the exception provided by clause (b) of Section 2(o) of the Industrial Disputes Act, 1947. The company further contends that the settlement dated 14th January 1954 did not apply to Chakravarti as that agreement only applied to those who were 'workmen' and as according to it Chakravarti was not a workman but an Officer under the Eastern Coal Company Limited; that agreement did not apply to him and he was not entitled to the benefit of his past services with the Eastern Coal Co. Limited for the purposes of the retrenchment compensation payable to him and that for the purposes of retrenchment compensation his services with this company must be deemed to have commenced only from 1st January 1955, under its service rules only. The company has, therefore, submitted that as the superannuation of Chakravarti was in conformity with the service rules of Messrs. Karamchand Thapar Bros. Limited, which were applicable to him, the same was valid and legal and no claim of any kind in respect of that superannuation was maintainable against it.

11. The Eastern Coal Company Limited in its written statement has firstly urged the preliminary legal objection that as the Kankanee Colliery in respect of which this dispute is alleged to exist was sold by it to the Bhowra Kankanee Collieries Limited with effect from 1st January 1955 the relationship of master and servant between it and the workmen of that colliery including Chakravarti ceased to exist from that date and no industrial dispute could arise subsequent to the date of sale of that colliery by it and this Tribunal had therefore no jurisdiction to adjudicate upon the issue as stated in the Schedule to the Government order of Reference herein. Without prejudice to this contention, on the merits the company has stated that in the records available to it, the date of birth of Chakravarti is shown as 19th September 1900 and the date of his original employment with the company, in the Amlabad Colliery as 2nd March, 1925. The company further admits that during Chakravarti's tenure of service with it, there was no fixed age for superannuation. It denied as stated earlier that Messrs. Macneill & Barry Limited were liable to pay any pension to Chakravarti as they were only the Managing Agents and did not either own the Kankanee Colliery or were the employers of Chakravarti. The company denies its liability to pay any pension to Chakravarti on the ground that the Scheme only applied to the Indian Clerical Staff and the menial employed by the company and not to officers of the company and as Chakravarti was an officer, being the Personnel Officer of the Kankanee colliery, he was not entitled to any pension under the company's Pension Scheme.

12. The union in its rejoinder dated 9th October 1958 to the Bhowra Kankanee Collieries Limited's written statement, has urged that what is relevant for the determination of dispute under reference was the status of Chakravarti on the date his services were terminated and not his status under the old employers. It further submits that both under the old employers and under the new employers on the date of the termination of his services Chakravarti, considering the nature of his duties, was a workman. It has further submitted that the service rules of Messrs. Karamchand Thapar Bros. Limited did not apply to Chakravarti as they were not the owners of the Kankanee colliery in which he was employed nor were they his employers, nor Chakravarti their employee. They further state that Chakravarti as not re-employed but had been continued in service by the Bhowra Kankanee Collieries Limited even after reaching the age of 55 years. The Union has in the rejoinder reiterated its contention that the termination of the service of Chakravarti had amounted to retrenchment as defined by Section 2(oo) of the Industrial Disputes Act, 1947 and that as the procedure under Section 25F of the Act and its rules had not been followed the retrenchment was illegal. The Union has also urged in the rejoinder that Chakravarti was entitled to pension from the Eastern Coal Company Limited as the Pension Scheme of that company applied to him considering the nature of the duties which he had performed under that company.

13. In its reply to this rejoinder the Bhowra Kankanee Collieries Limited has reiterated its contention that Chakravarti's retirement did not amount to retrenchment under the exception (b) to Section 2(oo) of the Act and that the service rules of Messrs. Karamchand Thapar Bros. Limited amounted to a contract between the company and its employees and therefore the said service rules applied to Chakravarti.

14. On these pleadings of the parties the very first question that falls for determination is whether the superannuation of Chakravarti by Messrs. Bhowra Kankanee Collieries Limited is justified or not and the subsequent questions as to what relief he is entitled and from whom would depend upon the answer that is given to that question. I, therefore, proceed to decide this question.

15. Now, it is conceded by the Bhowra Kankanee Collieries Ltd. that on the date of Chakravarti's superannuation from service with effect from 31st March 1957 though his designation was Welfare Officer, he was on the basis of the duties performed by him a workman as defined by Section 2(s) of the Industrial Disputes Act. This was specifically conceded by Shri S. S. Kapoor, the Labour Welfare Officer of the company who represented this company at the hearing before me and also by its learned counsel Shri Choudhury. This is also established from the records of the duties performed by Chakravarti (Exhibits W-H series and Exhibit W-1). This company has lead no evidence to contradict this position. Shri Choudhry, however, relied upon the decision of the Labour Appellate Tribunal in the case of certain workmen of the D.I.E.T. (India) Limited and the British Institute of Engineering Technology (India) Limited (1953-I.L.L.J. p. 592) where it was held on an examination of the duties performed by the Welfare Officers of that Institute, which was training students in certain Engineering

Technological courses, that they exercised certain amount of independent judgment in the matter of the lessons prescribed by them to the students of that Institute and were not discharging duties of a clerical nature and were therefore not workmen under Section 2(s) of the Act. That case has no relevance to the duties performed by the Welfare Officer of this company. It is by now well settled law that it is not the designation of an employee which determines whether he is a 'workman' or not as defined by Section 2(s) of the Act, but the actual duties performed by him. (See *Burmah Shell & Oil Storage and Distributing Co. of India Limited, Madras and their employees—1954—I.L.L.J. p. 21*). As in this case it is both conceded and also established by the documentary evidence on the record that mainly the duties performed by Chakravarti were clerical, it must be held that on the date of his superannuation from service on 31st March 1957, he was a "workman" as defined by Section 2(s) of the Industrial Disputes Act, 1947 and its provisions therefore applied to him in the matter of the termination of his service.

16. The company's contention is that Shri Chakravarti's superannuation was valid and proper as the service rules of Messrs. Karamchand Thapar & Bros. (Private) Limited were the service rules applicable to him when he was in its service and those service rules provide for superannuation of a workman on reaching the age of 55 years and that therefore the superannuation did not amount to retrenchment as it was governed by exception (b) of Section 2(oo) of the Act. The union on the other hand contends that the service rules of Karamchand Thapar & Bros. (Private) Limited did not apply to Chakravarti but that he was governed by the service conditions of Eastern Coal Company on which his services were continued by M/s. Bhowra Kankanee Collieries Ltd. and in any case by the certified Standing Order under the Industrial Employment (Standing Orders) Act, 1946 which were applicable to the workmen of the Kankanee Colliery—in fact to all the collieries in Bihar State—and those standing orders do not provide any stipulation or age for retirement. It, therefore, contends that the superannuation of Chakravarti had amounted to retrenchment under Section 2(oo) of the Industrial Disputes Act, 1947 and as the procedure prescribed by Section 25F of the Act had admittedly not been followed, his retrenchment was illegal and invalid.

17. The first point to determine therefore is whether the service rules of Messrs. Karamchand Thapar & Bros. (Private) Limited applied to Chakravarti. Now, it is admitted that Chakravarti was employed in the Kankanee Colliery of which the owners are Messrs. Bhowra Kankanee Collieries Limited and of which Messrs. Karamchand Thapar & Bros. (Private) Limited are only the Managing Agents. It is further admitted that there are no service rules of Messrs. Bhowra Kankanee Collieries Limited but that its employees in the collieries are governed by the certified standing order framed under the Industrial Employment (Standing Orders) Act 1946 for all collieries in Bihar State and that this colliery is also situated in Bihar State. It is also admitted that when Chakravarti joined the service of the company on 1st January 1955, he was never given any separate letter of appointment nor was it stated that he would be governed by the service rules of Messrs. Karamchand Thapar & Bros. (Private) Limited. The company's case is that he was governed by the service rules of Karamchand Thapar & Bros. (Private) Limited because under clause 5 of the settlement of 14th January 1955 the union had agreed to drop all its other demands made in its strike notice of 24th December 1954 except those on which a settlement was reached and Demand No. 6 in that notice was that the employees of the four collieries should not be governed by the service rules of Messrs. Karamchand Thapar & Bros. (Private) Ltd. and the certified standing order in force in the colliery should only be followed. In my opinion, this contention is untenable and the construction sought to be put by the company on clause 5 of the agreement of 14th January 1955 is not correct, if the agreement is read as a whole. Under clause (2) of the agreement this company (Bhowra Kankanee Collieries Limited) agreed to treat as continuous the services of the workmen who were taken over by them and under clause (3) of the agreement it agreed that the existing conditions and facilities would be continued excepting for pension, the responsibility of which was to be of the Eastern Coal Company Limited. Thus, the Bhowra Kankanee Collieries Ltd. having agreed to continue the existing service terms and conditions and facilities of Eastern Coal Co. Ltd. excepting pension the demand of the union that the workmen taken over should not be governed by the service rules of Karamchand Thapar & Bros. (P) Limited was in effect conceded. I accept Shri D. Narsingh's contention on behalf of the union that demand No. 6 of the notice of strike dated 24th December 1954, was covered and conceded by clause (3) of the agreement. Even otherwise, merely because the settlement of 14th January 1955 states that the other demands were dropped it cannot mean that the Union had agreed to be

governed by the service rules of Messrs. Karamchand Thapar & Bros. (Private) Limited. The company's stand appears to me to be inconsistent, as whilst on the one hand it argues that Shri Chakravarti was not governed by the terms of settlement dated 14th January 1955, because he was not a workman on the date of the transfer of the collieries to the present owners, because according to it, that settlement only applied to 'workmen', it on the other hand argues that the service rules of Karamchand Thapar & Bros. (Private) Limited applied to Chakravarti under clause 5 of the agreement.

18. I am also not satisfied that because it is alleged by the old employers—Eastern Coal Company Limited that Chakravarti was an Officer under it, being its Personnel Officer, on the date of transfer and sale of the colliery on 1st January 1955, he was not governed by the Standing Orders applicable to the Kankanee colliery. The Bhowra Kankanee collieries Limited has conceded that under it Chakravarti was a workman as defined by section 2(s) of the Act on the date of his superannuation. Surely, therefore as such the certified standing order applicable to the workmen of the Kankanee colliery were applicable to him on the date of his superannuation. His superannuation must therefore be governed by his status not with the old company but on the basis of his status as on the date of his superannuation. In the case of Salem Sri Ramaswami Bank Limited (1956—L.L.J. p. 40) it was held by the High Court of Madras in a case under the Madras Shops and Establishments Act, that when a statutory right is claimed [in that case under Section 41(2) of the Madras Shops and Establishments Act] the relevant period would be that immediately preceding that claim of right. In such a case the claim that the person had one time held a position of management would not be a ground for denying him the statutory right which he claimed. Therefore, what is necessary to take into account is the status of Chakravarti on the date he was superannuated by the company and not the status which he enjoyed under old employers. In this case as it is conceded that he was a 'workman' as defined by Section 2(s) of the Industrial Disputes Act, 1947, on the date of his superannuation, the certified standing order applicable to the workmen of the Kankanee Colliery would apply to him. Now the service rules of Messrs. Karamchand Thapar & Bros. (Private) Limited are on record (Exhibit E.E.-4). The very first rule is as follows:—

"These rules shall be referred to as the Service Rules, and apply to all the Employees of Messrs. Karamchand Thapar & Bros. Limited, and also to the Employees of all the Companies under their Management and control, and shall, *mutatis mutandis* apply to all their Branches and Offices, Mills, Factories, Collieries and other Works wherever situate, except in so far and to the extent, it is otherwise agreed upon by agreement or letter of appointment in any case, or there are any Standing Orders under the Industrial Employment (Standing Orders) Act of 1946, or any other Statute for the time being in force and applicable to any office, mill, colliery or works, or to an employee or group of employees. Any breach of the Service Rules by an employee shall be deemed to be a breach of contract of service."

It will thus be seen that these service rules themselves provide that they are not applicable to employees in collieries to which certified standing order under the Industrial Employment (Standing Orders) Act, 1946 are applicable. Now, it is admitted that for the Kankanee Colliery, in which Chakravarti was employed on the date of his superannuation, there are certified Standing Orders under the Industrial Employment (Standing Orders) Act, 1946. Thus, under the provisions of Rule 1 of the service of Messrs. Karamchand Thapar & Bros. Private Limited itself those rules cannot apply to 18A. Shri D. Narsingh, the learned Advocate for the union has relied upon the decision of the Patna High Court in the case of Lala Karamchand Thapar Vs. the State of Bihar (A.I.R. 1958. Pat. p. 378—1958 Pat. L.R. p. 209). In that case, which related to the Amlabad colliery, one of the 4 collieries owned by Messrs. Bhowra Kankanee Collieries Limited that Messrs. Karamchand Thapar & Bros. (Private) Limited, who are Managing Agents of the said company could not be held to be the owners of the said mine within the meaning of Section 2(1) of the Mines Act 1952 and could also not be persecuted as Agents within the meaning of Section 2(c) of the said Act. It is no doubt true as pointed out by Shri Choudhry, the learned Advocate for the Bhowra Kankanee Collieries Limited that that decision concerned the interpretation of the terms 'owners and Agents' as occurring in Section 2(1) and 2(c) of the Mines Act 1952. But Shri Narsingh, the learned Advocate for the union has relied upon the admitted position stated in that case by the Managing Agents—namely Messrs. Karamchand Thapar & Bros. (Private) Limited that they were not the proprietors or lessees of the collieries of Messrs. Bhowra Kankanee Collieries Limited who were their proprietors. This would no doubt lend support

to his contention that the terms of service of Messrs. Karamchand Thapar & Bros. (Private) Limited were not applicable to Chakravarti. But even apart from this, it is clear in this case as indicated earlier that the service rules of Messrs. Karamchand Thapar & Bros. (Private) Limited could not apply to the workmen of the Kankanee Colliery as Rule 1 of those service rules provides that where there are certified standing orders applicable to any of the collieries owned by any company of which Messrs. Karamchand Thapar & Bros. (Private) Limited were the Managing Agents, those standing orders would apply and not the terms of service of Messrs. Karamchand Thapar & Bros. (Private) Limited.

19 The company in its correspondence with the Conciliation Officer and in its written statement has sought to reply upon a judgment (of which court or Tribunal is not clear) in Reference No. 74 of 1955 in the case of J. K. Verma Vs. Deori Sugar Mills. It was stated that Messrs. Karamchand Thapar & Bros. (Private) Limited were also the Managing Agents of that Sugar Mills and that it was held in that case that the service rule No. 11(c) of the service Rules of Karamchand Thapar & Bros. (Private) Limited relating to retirement after reaching the age of 55 years also applied to the workmen of the sugar mills, though the workmen of that sugar mills were governed by Standing Order applicable to the sugar mills in that State which contained no such provision for retirement from service. The company has however not produced a certified copy of that judgment or decision, but has only annexed an un-certified extract from that judgment on which it has sought to rely and this was rightly objected to by Shri D Narsingh the learned Advocate representing the workmen in this case. No reliance can therefore be placed on the uncertified copy of only a portion of the judgment to which the company has referred. Even otherwise, from the portion of the judgment extracted, that case can easily be distinguished from the facts of the instant case, as in that case the Tribunal or Court appears to have relied upon the fact that the attention of all the staff and workers of the sugar mills was drawn by a circular to Rule 11(c) of the Service Rules of Messrs. Karamchand Thapar & Bros. Private Limited and presumably it was on that fact that they were held to be governed by that service rule. In this case no such thing has happened and the company has sought to apply the service rules of Messrs. Karamchand Thapar & Bros. Private Limited only on the basis of clause (6) of the agreement of 14th January 1955 which contention I have rejected.

20. I, therefore, hold that the service rules of Messrs. Karamchand Thapar & Bros. (Private) Limited did not apply to Chakravarti and that he was governed by the certified standing order applicable to the Kankanee Colliery, which admittedly do not contain any stipulation on the point of retirement or the age of retirement.

21. As held by the Bombay High Court, (J. R. Mudholkar and S. P. Kotwal J. J.) in the case of Dewli and others Vs. the State Industrial Tribunal, Nagpur, (1958—F.J.R. Vol. XV Part V p. 174), the retirement of workmen on reaching the age of superannuation must, in order that it may fall outside the definition of retrenchment in Section 2(oo) of the Industrial Disputes Act 1947 comply with two requirements. (1) that there must be a stipulation on the point of retirement in the contract of employment and (2) the stipulation must be in regard to the age of superannuation. In this case, as admittedly there was no stipulation with regard to the point of retirement and with regard to the age of retirement in the contract of service of Chakravarti with Messrs. Bhowra Kankanee Collieries Ltd. or in the standing order applicable to the Kankanee Colliery and as I have held that the service rules of Messrs. Karamchand Thapar & Bros. (Private) Limited do not apply to Chakravarti, the superannuation of Chakravarti does not fall outside the definition of "Retrenchment" contained in Section 2(oo) of the Act. It must therefore be held that his retirement amounted to retrenchment as defined by Section 2(oo) of the Act and was not covered by the exception provided by clause (b) thereof.

22. Now, under Industrial Disputes Act before retrenchment as defined by Section 2(oo) can be effected the procedure prescribed by Section 25F of the Act must be followed. Section 25F is as follows:—

"25F. *Conditions precedent to retrenchment of workmen.*—No workmen employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;

Provided that no such notice shall be necessary if the retrenchment is under an agreement which specified a date for the termination of service;

(b) the workman has been paid, at the time of retrenchment compensation which shall be equivalent to fifteen days' average pay for every completed year of service or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government."

Section 25F thus contains a prohibition against an employer retrenching his employees until he has carried out the conditions laid down in that section. As held by the High Court of Bombay (Shri Chagla C. J. and Shri Desai J.) in the case of the Hospital Mazdoor Sabha and State of Bombay (1957 I.L.L.J. p. 55), if the conditions precedent to retrenchment of a workman under Section 25F are not complied with the right that the employee gets is the right to challenge the retrenchment and to contend that his services were not legally and effectively terminated. This proposition was not contested by the learned representatives of the Bhowra Kankanee Collieries Limited whose whole case, has been that the termination of service of Chakravarti did not amount to Retrenchment as his case falls under the exception provided by clause (b) of Section 2(oo). As it is admitted that the procedure under Section 25F was not followed and as I have already held that the termination of service of Chakravarti was not covered by the exception provided by clause (b) of Section 2(oo), it must be held that his retrenchment was illegal and ineffective.

33 In its written statement the company has argued that Chakravarti's services with it commenced only from 1st January 1955 and that for the purposes of payment of retrenchment compensation only that period of service should be counted. Thus even apart from the question of his past services with the Eastern Coal Co. Ltd the retrenchment of Chakravarti was illegal and would be ineffective as the procedure prescribed by Section 25F was not followed and he was not paid retrenchment compensation as provided for by Section 25F(b) even for that period of his service.

34 The next question that arises is what relief Chakravarti should be granted and by whom. The union had in its original letters addressed to the Regional Labour Commissioner in April 1955, immediately after the superannuation of Chakravarti, claimed that the order of superannuation should be held to be illegal and set aside and he should be re-instated in service with back wages. The same claim has also been advanced at the hearing on his behalf. The Government Order of Reference also leaves the nature of the relief to me and in its rejoinder dated 9th October 1958 the union has also claimed that this Tribunal should award such relief as it thinks fit and proper. Ordinarily, when an order of the employer terminating the services of the workman is held by the Tribunal to be illegal, it orders reinstatement of the workman in the post from which his services were terminated. In this case, it is not the company's case that Chakravarti was sent away because he is not fit to discharge his duties because of his age. In fact Chakravarti had asserted in his letters to the company dated 24th November 1956 and 1st April 1957 that he was physically and otherwise fit to serve the company for many years more and this was not denied by the management. He was superannuated on the ground that the service rules of Messrs. Karamchand Thapar (Private) Limited provided for retirement of workmen on reaching the age of 55 years and not on the ground that because of his age he was not physically fit to serve. It must be remembered that Chakravarti on 1st January 1955 had almost reached the age of 55 years, but the company continued him in service. This shows that he was quite fit to discharge his duties as Welfare Officer when he was taken over by the company. There is not a word alleged by the company that he was not fit to perform his duties on the date of his retirement or is unfit to serve even today. I am, therefore, satisfied that the proper relief to grant him would be to direct his reinstatement in service, and to order the company to pay him half his back pay (pay to include Basic Pay and Dearness Allowance and quarterly bonus) from the date of his retrenchment i.e. from 1st April 1957 till he is re-instated in service. I, therefore, direct that he should be reinstated in service within 15 days from the date this Award becomes enforceable under Section 17A of the Act and the back pay as directed above should be paid to him within a fortnight thereafter. The back pay to be paid to him as stated above shall be calculated on the basis of the pay that he was being paid as on 1st March 1957. Of course, he shall be entitled to continuity of his past services.

25. Having granted this relief against Messrs. Bhowra Kankanee Collieries Limited the question of whether he is entitled to any pension from Messrs. Eastern Coal Company Limited need not be decided, as the same as admitted would arise only when the services of Chakravarti are finally terminated with the Bhowra Kankanee Collieries Limited. As I have reinstated Chakravarti in service, the question whether he is at all entitled to payment of pension from the Eastern Coal Company Limited does not fall for decision. I must make it clear that nothing in this Award shall be deemed to have decided the contention of either of the union or of the Eastern Coal Co. Ltd. with regard to the question whether Chakravarti is or is not entitled to pension from Eastern Coal Co. Ltd.

26. In my opinion, this is a fit case where costs should be allowed to the union against Messrs. Bhowra Kankanee Collieries Ltd. and I award Rs. 100 as costs against it to the Union.

Dhanbad, 3rd February, 1959.

(Sd.) SALIM M. MERCHANT,
Chairman,

Central Government Industrial Tribunal, Dhanbad.

[No. LR-II/2(10)58.]

New Delhi, the 13th February 1959

S.O. 432.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to the Busserya Colliery, P.O. Kusunda and their workmen.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DHANBAD

REFERENCE No. 58 OF 1958

PARTIES.

Employers in relation to the Busserya Colliery, P.O. Kusunda

AND

Their workmen.

Dhanbad, the 31st January 1959

PRESENT:

Shri Salim M. Merchant, B.A.L.L.B.—Chairman.

APPEARANCES:

Shri S. S. Mukherjee, B.Sc. B.L., Advocate, with Shri N. Mukherjee, Manager, Busserya Colliery—for the Employer company.

Shri D. Narsingh, Advocate, with Shri H. P. Dubey, Vice-President, Indian National Mines, Overmen, Sardars & Shot-Firers Association, and with Shri K. N. Palit—for the workmen.

State: Bihar.

Industry: Coal.

AWARD

The Government of India, Ministry of Labour & Employment, by its Order No. LR-II.2(138)/58 dated 18th October 1958 made in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (XIV of 47), was pleased to refer to me for adjudication the industrial dispute between the parties above named in respect of the following matters specified in the schedule annexed to the said order:—

"Whether the management of Busserya Colliery was justified in changing the designation of Shri Khetra Nath Palit from Overman to Mining Sirdar and if not, to what relief he is entitled?"

2. At the hearing of this reference to-day, after some discussion in court, the parties reached a settlement terms of which are embodied in the joint application filed by them. A copy of the said application is annexed hereto and marked Annexure 'A'. The parties have prayed that an award be made in terms of the

said settlement. As I am satisfied that the terms of settlement, in the facts and circumstances of the case are fair and reasonable, I make an award in terms of Annexure 'A' hereto which shall form part of this award.

(Sd.) SALIM M. MERCHANT,

Chairman.

Central Government Industrial Tribunal, Dhanbad.

ANNEXURE A

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DHANBAD

REFERENCE No. 58 OF 1958

PARTIES:

Employers in relation to Busserya Colliery

AND

Their workmen.

May it please the Tribunal:

We the parties to the above dispute have arrived at the following settlement and pray that an award be made in terms thereof:

1. That the parties are agreed that the management will pay Shri Khetra Nath Palit the basic salary of Rs. 95/- per month with effect from 1st June 1958 in the scale of pay prescribed for overman by the Majumdar Award as modified by the decision dated 29th January 1957 of the Labour Appellate Tribunal of India and will pay him the arrears of basic pay and corresponding dearness allowance and bonus with his salary for the month of February 1959. It is further agreed that his designation will be restored and he will be continued to be designated as overman until the Department of Mines objects to his being so designated.

2. It is further agreed that the management will amend the certificate issued earlier to Shri Khetra Nath Palit to the above effect.

3. At the suggestion of the Tribunal, the management agrees to make an *ex-gratia* pay of Rs. 50 (fifty) to Shri K. N. Palit towards the expenses incurred by him in connection with this dispute.

Dhanbad, 31st January 1959.

For employers:

N. MUKHERJEE,

Manager, Busserya Colliery.

For workmen:

KHETRA NATH PALIT.

H. P. DUBEY.

Vice President, Indian National Mines Overmen,

Sirdars and Shot Firers Association.

Witnessed by:

S. S. MUKHERJEE, Advocate,

Before me. Taken on file.

(Sd.) SALIM M. MERCHANT,

Chairman.

Central Government Industrial Tribunal, Dhanbad.

Witnessed by:

D. NARSINGH,

[No. LR II/2(138)/58.]

S.O. 433.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to the Bird's Saunda Colliery P.O. Bhurkunda, Distt. Hazaribagh and their workmen.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DHANBAD

REFERENCE No. 51 OF 1958

PARTIES:

Employers in relation to Bird's Saunda Colliery, P.O. Bhurkunda, Dt. Hazaribagh.
AND

Their workmen.

Dhanbad, the 29th January 1959

PRESENT:

Shri Salim M. Merchant, B.A.L.L.B.—*Chairman.*

APPEARANCES:

Shri S. S. Mukherjea, B.Sc. B.L. Advocate, with Shri P. K. Mitter, Chief Personnel Officer and Shri J. L. Sinha, Group Personnel Officer—for the employer-company.

Shri D. Narsingh, Advocate—for the workmen.

State: Bihar.

Industry: Coal.

AWARD

The Government of India, Ministry of Labour & Employment, by its Order No L.R.II/2(68)/58, dated 14th August 1958, made in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (XIV of 47), was pleased to refer to me for adjudication the industrial dispute between the parties above named in respect of the following matters specified in the schedule to the said order:—

"What should be the grade and nomenclature of Sarvashri N. L. Sarkar, Nani Gupta, Dwarka, Fulchand, Trammig Sardars, in terms of the Award of the All India Industrial Tribunal (Colliery Disputes) Calcutta?"

2. After the matter was part heard on 15th December 1958, the parties applied for time to negotiate for a settlement and at the adjourned hearing on 28th January 1959 the parties after mutual negotiations before me reached a settlement, the terms of which are embodied in the application filed by them, a copy of which is annexed hereto and marked Annexure 'A'. The parties have prayed that an award be made in terms of the settlement and as I am satisfied that the terms of settlement are fair and reasonable, I make an award in terms of Annexure 'A' hereto which shall form part of this award.

(Sd.) SALIM M. MERCHANT,
Chairman,

Central Govt. Industrial Tribunal, Dhanbad.

ANNEXURE 'A'

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DHANBAD

REFERENCE No. 51 OF 1958

PARTIES:

Employers in relation to Bird's Saunda Colliery, P.O. Bhurkunda, Dt. Hazaribagh

AND

Their workmen.

May it please the Tribunal:

We, the parties to the above dispute, have reached the following settlement and pray that an award be made in terms thereof:—

(1) It is agreed that Shri N. L. Sarkar shall be appointed and designated as Shot-Firer with effect from 1st February 1959 and he shall be paid from that date in the scale of pay for Mining Sirdar Class II viz. Rs. 52—3—73. It is further agreed that the company shall pay him the difference between his existing basic pay of Rs. 1:64 nP. and Rs. 1:75 nP with appropriate dearness allowance and bonus for the period from 14th August 1958 to 31st January 1958.

(2) It is further agreed that Sarvashri Nani Gupta, Dwarka, and Fulchand will continue to be designated as Trammings Sirdars but shall be entitled to Rs. 1.75 nP. basic wage per day with effect from 14th August 1958 and they shall be paid arrears with appropriate increase in dearness allowance and bonus accordingly from that date.

2. (a) It is further agreed that they shall be entitled to the benefits of incremental scales of pay when fixed for daily rated workmen as provided for by paragraph 708 of the award of the All India Industrial Tribunal (Colliery Disputes), dated 26th May 1956.

3. At the request of the workmen and on the suggestion of the Tribunal the company agrees to make a lump sum *ex gratia* payment of Rs. 150 to these 4 workmen towards the expenses incurred by them in connection with this dispute.

4. It is further agreed that all dues under this settlement shall be paid to the 4 workmen along with their wages for the week ending 13th February 1959.

Dhanbad, dated the 28th January, 1959.

For and on behalf of M/s. Bird & Co. (P) Ltd
in relation to Saunda Colliery.

P. K. MITTER
Chief Personnel Officer.

For the workmen:
NANI GUPTA.

(Sd.) DWARKA

B. P. LALLA.
General Secretary, Saunda Colliery Mazdoor Seva Sangh.
Witnessed by:

For the workmen:
N. L. SIKKAR.

Taken on file.

(Sd.) SALIM M. MERCHANT,
Chairman.

D. NARSINGH, Advocate.
28-1-59.

Central Government Industrial Tribunal, Dhanbad.
28-1-59.

[No. LRII/2(68)/58.]

ORDER

New Delhi, the 12th February 1959

S.O. 434.—Whereas the Central Government is of the opinion that an industrial dispute exists between the employers in relation to the Digwadih Colliery of Tata Iron and Steel Company Limited, and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Having regard to the duties performed by Sarvashri M. M. Umrigar, A. R. Chakravarti and B. B. Chatterjee, Belt Supervisors of Digwadih Colliery, whether they should be placed in Grade II prescribed by the All India Industrial Tribunal (Colliery Disputes) in its award, as modified by the Labour Appellate Tribunal, and if so, from what date?

[No. LRII/2(10)/59.]

K. D. HAJELA, Under Secy.

New Delhi, the 13th February 1959

S.O. 435—In pursuance of sub-section (3) of section 22 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby specifies for a period of three months from the date of this notification, the Labour Inspector

(Central), Secunderabad, as the authority to whom the employer shall during the said period send intimation of any lock-out or strike referred to in the said sub-section, in the State of Andhra Pradesh.

[No. LR-I-1(13)/59.]

S.O. 436.—In exercise of the powers conferred by Section 4 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby appoints the Labour Inspector (Central), Secunderabad, to be a Conciliation Officer, for a period of three months from the date of this notification for:—

- (i) all industries carried on by or under the authority of the Central Government;
- (ii) all mines and oil fields; and
- (iii) all banking and insurance companies in the State of Andhra Pradesh.

[No. LR-I-1(13)/59.]

ORDER

New Delhi, the 17th February 1959

S.O. 437.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to Messrs British India Steam Navigation Company, Bombay, and their workmen regarding the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by section 7A and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby constitutes an Industrial Tribunal with Shri F. Jeejeebhoy, Chairman, Labour Appellate Tribunal, as the Presiding Officer, with headquarters at Bombay, and refers the said dispute to the said Tribunal for adjudication.

SCHEDULE

1. Whether bonus for the year 1957-58 should be paid to the staff of the Cargo Department in Bombay of the British India Steam Navigation Company Limited.

2. If so, the quantum of such bonus.

[No. LR. IV-28(4)/59.]

A. L. HANDA, Under Secy.

New Delhi, the 16th February 1959

S.O. 438.—In pursuance of sub-section (1) of section 86 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby authorises the Deputy Regional Directors Incharge of the Employees' State Insurance Corporation to institute prosecutions or accord previous sanction to prosecutions under the said Act.

[No. F. HI-1(99)/59.]

BALWANT SINGH, Under Secy